



**TOWN OF NEW WINDSOR**  
**ZONING BOARD OF APPEALS**  
**Regular Session**  
**Date: JULY 26, 2004**  
**AGENDA**

7:30 p.m. – Roll Call

Motion to accept minutes of JUNE 28, 2004 & JULY 12, 2004 meetings as written.

**PRELIMINARY MEETINGS:**

1. **KEVIN GOLDEN & WILLIAM NOLTE (04-59)** Request for 10 ft. Side Yard Setback (F-7) for proposed side entrance at 43 Lakeside Drive in an R-4 Zone **(60-1-9)**

**PUBLIC HEARINGS:**

2. **FRANK MALLOY (04-47)** Request for:  
9 ft. Rear Yard Setback for existing attached rear deck and; (300-11-A-1-B)  
5 ft. Side Yard Setback for existing shed and; (300-11-A-1-B)  
5 ft. Rear Yard Setback for existing shed (300-11-A-1-B)

All at 67 Cedar Avenue in an R-4 Zone **(16-4-33)**

3. **JAMES LEE (04-48)** Request for 3 ft. Front Yard Setback for existing concrete porch (Bulk Tables E-8) at 12 Lawrence Avenue in an R-4 Zone **(13-3-7)**

4. **ANGEL BRENNAN (04-51)** Request for:

14 ft. Rear Yard Setback for proposed attached 14ft X 14 ft. deck and;  
8.6 ft. Side Yard Setback and 7.4 ft. Rear Yard Setback for existing shed

All on a corner lot (Bulk Tables G-6) at 60 Clancy Avenue in an R-4 Zone **(13-1-5)**

5. **GUARDIAN SELF-STORAGE (04-52)** Request for 2' 1" Height variance for proposed wall sign (300-45-A-2-A) at 149 Windsor Highway in an NC Zone **(9-1-25.3)**
6. **JOHN TALDONE (04-54)** Request for 1,790 sq. ft. Lot Area for proposed single-family dwelling on Sycamore Drive in an R-4 Zone **(63-4-9.2)**
7. **MICHAEL SULLA (04-53)** Request for

20 ft. Rear Yard Setback for existing attached rear deck (Bulk Tables – G-8) and;  
4 ft. Side Yard Setback and 5 ft Rear Yard Setback for existing shed (300-11-A-1-B)

All at 380 Frost Lane in an R-4 Zone **(75-10-9)**

8. **KATHLEEN CAMPBELL (04-23)** Request for 6.4 ft. Side Yard Setback (48-14,A-1b) for existing shed at 322 Linden Avenue in an R-4 Zone **(62-4-12.1)**

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
JULY 26, 2004

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN  
MICHAEL REIS  
JOSEPH MINUTA  
KATHLEEN LOCEY  
KIMBERLY GANN

ALSO PRESENT: ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

MYRA MASON  
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD  
STEVEN RIVERA

REGULAR MEETING

MR. KANE: I'd like to call to order the Town of New Windsor Zoning Board of Appeals July 26, 2004 meeting, roll call please:

ROLL CALL:

MS. LOCEY	HERE
MS. GANN	HERE
MR. REIS	HERE
MR. MINUTA	HERE
MR. KANE	HERE

APPROVAL OF MINUTES DATED JUNE 28, 2004 AND JULY 12, 2004:

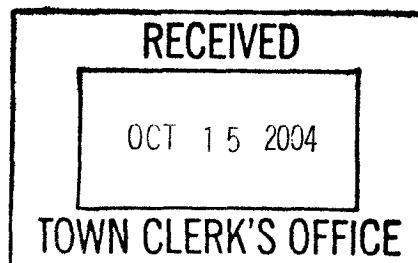
MR. KANE: May I have a motion to accept minutes of 6/28/04 and 7/12/04.

MR. REIS: So moved.

MR. MINUTA: Second.

ROLL CALL:

MS. LOCEY	AYE
MS. GANN	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE



PRELIMINARY MEETING:

KEVIN GOLDEN & WILLIAM NOLTE (04-59)

MR. KANE: Tonight's first preliminary meeting is Kevin Golden and William Nolte request for a 10 foot side yard setback for proposed side entrance at 43 Lakeside Drive. Tell us what you want to do sir, state your name and your address clearly.

MR. GOLDEN: My name is Kevin Golden at 43 Lakeside Drive and this is my architect, Mary Stakous and we propose to build a staircase to connect the basement and the upstairs and make a side entrance.

MS. STAKOUS: There is currently no access inside the house between the two levels so that's what my clients wanted to be able to connect the inside so they can be able to go down and use the lower level without going through the weather.

MR. KANE: Michael, tell me why they're here for an entrance.

MR. BABCOCK: It's part of the house Mr. Chairman so the required setback in an R-4 zone is 15 feet. So this will be part of the house and it will only be 10 foot 6 inches so we rounded it to 10 foot to give them a little play room. They should only be requesting a five foot, that's a typo.

MR. KANE: Okay, so is it correct in the denial. Okay, make sure we just change that in the denial. Not going to create any water hazards or runoffs with the building of the entrance.

MS. STAKOUS: No it will not. The entrance is on the downhill side and there won't be any water coming into it.

MR. KANE: Obvious questions, but you're not cutting down any trees or removing substantial vegetation in the building of the side door opening.

MR. GOLDEN: There are no trees in that area.

MR. KANE: Understood, but, we have to ask that question so the answer would be no. Any easements through that area on your property.

MS. STAKOUS: No not in that area.

MR. REIS: Is the proposed addition slightly wider than the existing ramp area.

MR. KANE: There's no addition, it's just an entrance.

MS. STAKOUS: No, actually it is an addition. You can see that on the site plan, there is a very small hatched area on the site plan that that would be the addition.

MR. KANE: Oh, Okay, sorry Mike.

MS. STAKOUS: I'm not sure where you're referring to as far as the ramp.

MR. REIS: Well, I'm looking at the existing photos that you supplied, thank you very much, and your survey. Are they one and the same as far as..

MS. STAKOUS: This ramp is on the opposite side. This is currently the existing entrance to the home. The stair will be on the opposite side of the ramp, which is this elevation. The lower right hand photograph so, this side faces the lake. This is a walk-out basement that is in use... and there is no way to .... At this time and this setback in the existing home provided an opportune location for putting in the stair without encroaching too much on the existing site.

MR. KANE: Is there going to be an outside entrance from this stairwell that's going up here.

MS. STAKOUS: Yes.

MR. KANE: Okay and there's no intention or intent to make a downstairs apartment whatsoever.

MR. GOLDEN: No.

MR. KANE: Any other questions.

MR. REIS: Have you asked about the easements.

MR. KANE: Yes.

MR. REIS: Will you accept a motion.

MR. KANE: Yes I will.

MR. REIS: I make a motion that we set up Kevin Golden and William Nolte for their proposed side entrance addition to 43 Lakeside Drive for a public hearing.

MR. MINUTA: Second.

ROLL CALL:

MS. LOCEY	AYE
MS. GANN	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

Motion carried 5 Ayes.

PUBLIC HEARINGS:

FRANK MALLOY (04-47)

MR. KANE: Okay, we'll start tonight's public portion of the meeting. Just a note that the number six spot, John Taldone, that will be moved to the last hearing and seven and eight will move up one. First public hearing for this evening is Frank Malloy request for 9 foot yard setback for existing attached rear deck, five foot side yard setback for existing shed and a five foot rear yard setback for existing shed. Mr. Malloy.

No one present to represent this application.

MR. KANE: Okay, put that on hold.

JAMES LEE (04-48)

MR. KANE: Mr. James Lee is the next public hearing request for a 3 foot front yard setback for existing concrete porch at 12 Lawrence Avenue in an R-4 Zone. Mr. Lee.

MR. LEE: As you all know, I kind of done this illegal around 1983 and what I did I just had a standard six foot by eight foot steps on the porch and I took the width of my house and made it fourteen foot so I could put a couple of chairs on there and sit out and that's basically what I did sir.

MR. KANE: Over the... in 1983 you said,

MR. LEE: Approximately.

MR. KANE: Approximately, so over the last twenty years, any complaints formally or informally about that deck.

MR. LEE: No sir.

MR. KANE: Cut down any trees or remove substantial vegetation in the building of the deck.

MR. LEE: No sir.

MR. KANE: Create any water hazards or runoffs.

MR. LEE: No sir.

MR. KANE: Any easements running through the front part of your deck.

MR. LEE: No sir.

MR. KANE: And obviously, without the deck and the steps there, you would consider it a safety hazard walking out the front door.

MR. LEE: Yes sir.

MR. BABCOCK: It's about seven stairs high.

MR. KANE: Well, eleven inches – it's legal right?

MR. BABCOCK: Yes.

MR. KANE: Obviously, it would be a financial hardship to take this down and rebuilt it legal.

MR. LEE: It probably would sir.

MR. REIS: Are the steps included in the requested variance.

MR. BABCOCK: No.

MR. KANE: Not needed?

MR. BABCOCK: No.

MR. LEE: I just, like, added on to the side if it.

MR. KANE: At this point I will see if there's anybody in the audience and open it up to the public, see if there's anybody here for this particular hearing. Seeing as there is not, we will open and close the public portion of the hearing and ask Myra how many mailings we had.

MS. MASON: On the 9<sup>th</sup> day of July I mailed out eighty-seven envelopes and had no responses.

MR. KANE: One other question from me. With the building of the steps and the porch, that doesn't make the house closer to the road than other homes are in your neighborhood.

MR. LEE: No, when I originally bought the house it was always like a thirty-two foot setback, but, like I said, the porch was six foot 8 inches and the steps were there when we bought the house and I didn't alter that at all.

MR. KANE: So you just went to the side on there ...

MR. LEE: Same width, you know six foot.

MR. BABCOCK: Mr. Chairman, a smaller deck would be exempt from the front yard setback, when he made it wider, it's now required.

MR. KANE: And you understand that if the Board approves your request that you still have to meet all the standards from the Building Department.

MR. LEE: Oh yes.. yes.

MR. KANE: Any other questions gentlemen and ladies.

MR. MINUTA: Will you accept a motion.

MR. KANE: Yes, I will.

MR. MINUTA: I move that we grant Mr. James Lee's request for a three foot front yard setback for an existing concrete porch at 12 Lawrence Avenue in an R-4 Zone.

MS. LOCEY: I'll second that.

ROLL CALL:

MS. LOCEY	AYE
MS. GANN	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

Motion carried 5 Ayes.



**ANGEL BRENNAN (04-51)**

MR. KANE: Next public hearing is Angel Brennan request for a fourteen foot rear yard setback for a proposed attached 14 X 14 deck and an 8. 6 foot side yard setback and 7.4 foot rear yard setback for an existing shed.

MR. BRENNAN: I want to build a 14 X 14 deck and when I was here last time, you noticed that the shed was close ...

MR. KANE: Right, are we okay with his side yard and rear yard numbers.

MR. BABCOCK: For the shed Mr. Chairman.

MR. KANE: Yes, we added that on?

MR. BABCOCK: Yes.

MR. KANE: Create any water hazards or runoffs with the building of the shed.

MR. BRENNAN: No, that's an existing shed.

MR. KANE: That's an existing shed, you still have to answer the questions, so to your knowledge it would be no?

MR. BRENNAN: No.

MR. KANE: Have you created any water hazards or runoffs.

MR. BRENNAN: No.

MR. KANE: Any complaints about the shed, formally or informally.

MR. BRENNAN: No.

MR. KANE: Are you on town water and sewer.

MR. BRENNAN: Yes.

MR. REIS: Your proposed deck will not be going over any easements or right-of-ways.

MR. BRENNAN: No.

MR. KANE: And the 14 X 14 deck you feel is similar in size to other decks in your neighborhood.

MR. BRENNAN: Yes.

MR. KANE: At this point, I'll hold off questions and see if there is anybody in the audience for this particular meeting. Nobody here. We will open and close the public portion of the hearing and ask Myra how many mailings we had.

MS. MASON: On July 12<sup>th</sup>, I mailed out 41 envelopes and had no response.

MR. KANE: Back to you. Was the shed there when you purchased the home sir?

MR. BRENNAN: Yes.

MR. KANE: Approximately how long ago.

MR. BRENNAN: You mean when I bought the house?

MR. KANE: Yes.

MR. BRENNAN: About two years ago.

MR. KANE: Do you have any idea how long the shed itself has been there.

MR. BRENNAN: Yes, the neighbor said that shed has been there about forty years.

MR. KANE: About forty years?

MR. BRENNAN: Yeah, it's an old shed.

MR. KANE: You realize that if your requests are granted here, that you will be subject to meeting the Building Department inspectors and passing all their requirements.

MR. BRENNAN: Yes.

MR. KANE: That's all I have guys.

MR. MINUTA: Mr. Chairman, I see no issues here other than the metal shed that's encroaching on the property and the required distance between the two.

MR. KANE: No, that's from the other side.

MR. MINUTA: Okay, I have no further questions.

MR. REIS: I move we grant Mr. Brennan his requested variance for proposed attached 14 X 14 deck and his variance for setback for existing shed at 60 Clancy Avenue.

MR. MINUTA: Second.

ROLL CALL:

MS. LOCEY AYE

MS. GANN	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

Motion carried 5 Ayes.

**GUARDIAN SELF-STORAGE (04-52)**

MR. KANE: Next public hearing is Guardian Self-Storage request for 2 foot 1 inch height variance for proposed wall sign at 149 Windsor Highway.

MR. REDL: Good evening. My name is Frank Redl from Guardian Self-Storage, Herb Redl Properties. We've made an application for a variance, I previously submitted some color photos with the proposed sign superimposed on them. I had additional copies if you need more. The sign we propose to put up is not going to change the character at all, that area of Rt. 32 has become quite commercial. We don't think we're going to distract from the neighborhood whatsoever. Last time I was here for the pre-hearing meeting, one of the members of the board wanted to know what percentage of area the sign is going to take up between the two pillars. I forget who asked that question, but, I do have some sheets here showing my computations. The answer is 6% between the two pillars. The sign as proposed if this variance is granted is going to be 6% of that total area.

MR. KANE: Is the sign going to be illuminated?

MR. REDL: Yes it is, it's going to be internally illuminated. It's not going to be any flashing signs or anything. The sign company is going to put a bulb in each letter so there will be a total of ten bulbs.

MR. KANE: So it's a steady illumination.

MR. REDL: Correct.

MR. REIS: This is additional to the free-standing sign on the road.

MR. REDL: That's correct sir, yes it is. Actually, the main reason for the variance is because of the roof part of the sign itself. It's part of our registered trademark and we'd like to keep the roof. The roof is just about what pushes us over the town code requirement of 2 ½ feet.

MR. KANE: Since the picture is not going to a written word, I'd like to say that the sign itself is going to be on the front of the building and it's not going to extend higher than the front of the building.

MR. REDL: That's correct. The photograph I did submit according to the sign company is drawn to scale and that is the area where the sign is going to be.

MR. KANE: And did I hear you say you're going to be putting up a free-standing?

MR. REDL: There already is one.

MR. KANE: There is one. Are you going to...

MR. REDL: We'd like to keep that.

MR. KANE: And you won't need any variances for that sign.

MR. REDL: No.

MR. KANE: Okay, at this point, I'll ask the public if there is anybody here for this particular hearing. Seeing as there is not, we will open and close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On July 9<sup>th</sup>, I mailed out 74 envelopes and had no response.

MR. KANE: Board members do you have any other questions?

MR. MINUTA: Will you accept a motion.

MR. KANE: Yes I will.

MR. MINUTA: I move that we grant Guardian Self-Storage a request for a 2 foot 1 inch height variance for a proposed wall sign at 149 Windsor Highway in an NC Zone.

MR. REIS: Second.

ROLL CALL

MS. LOCEY AYE

MS. GANN AYE

MR. REIS: AYE

MR. MINUTA: AYE

MR. KANE: AYE

Motion carried 5 ayes.

**MICHAEL SULLA (04-53)**

MR. KANE: Next up tonight is Michael Sulla, if I'm saying that correctly. 20 foot rear yard setback for existing attached deck and a 4 foot side yard setback and 5 foot rear yard setback for existing shed, all at 380 Frost Lane.

MS. SULLA: Hi, I'm Kathy Sulla...

MR. MINUTA: Mr. Chairman, I'm familiar with the applicant but, I'm in no way ....

MR. KANE: Okay, thanks for noting that. Tell us what you want to do Ms. Sulla.

MS. SULLA: I would like a 20 foot rear yard setback for an existing deck that I have and also I have a shed that I think it needs a 4 foot side yard setback and a 5 foot rear yard setback.

MR. KANE: Okay, on the deck, the 20 foot rear yard, how long has the deck been in existence.

MS. SULLA: Two years.

MR. KANE: Two years?

MS. SULLA: Yes.

MR. KANE: Okay, cut down any trees or substantial vegetation in the building of the deck?

MS. SULLA: No.

MR. KANE: Create any water hazards or runoffs.

MS. SULLA: No.

MR. KANE: Did you guys build the deck?

MS. SULLA: No. We had someone come in to build it, a contractor.

MR. KANE: Did you file for a permit at that time?

MS. SULLA: No, our contractor said that because it was on the concrete that we wouldn't need a permit, so we just went with what he said.

MR. KANE: It's always good to check with the Building Inspector.

MS. SULLA: I didn't realize and the existing shed, my husband thought that because it wasn't like permanent, it's on those cinder blocks I guess, that it wasn't considered permanent, but, we needed one and we didn't realize it.

MR. KANE: Any complaints formally or informally on the deck?

MS. SULLA: No.

MR. KANE: How about the shed.

MS. SULLA: No.

MR. KANE: Any easements, do you have town water and sewer.

MS. SULLA: Do I have town water, yes.

MR. KANE: Any easements that you know of that are running through your property in either location?

MS. SULLA: No.

MR. KANE: How big is the deck itself.

MS. SULLA: The deck I believe is 11 X 18.

MR. KANE: And you don't feel that size deck is abnormal for your neighborhood? Mike, you had a question.

MR. REIS: Yeah, what prompted you to come before the Board?

MS. SULLA: We are selling our house and that is when we found out.

MR. KANE: At this point, I'll see if there is anybody in the audience for this particular hearing. Seeing as there is not, we will open and close the public portion and ask Myra how many mailings we had.

MS. MASON: On July 12<sup>th</sup>, I mailed out 84 envelopes and had no response.

MR. REIS: I make a motion that we grant the Sullas their requested variance for a 20 foot rear yard setback for the rear deck and a 4 foot side yard setback and 5 foot rear yard setback for an existing shed at 380 Frost Lane.

MR. MINUTA: Second.

ROLL CALL

MS. LOCEY AYE

MS. GANN AYE

MR. REIS: AYE  
MR. MINUTA: AYE  
MR. KANE: AYE

Motion carried 5 Ayes.



**KATHLEEN CAMPBELL (04-23)**

MR. KANE: Next public hearing is Kathleen Campbell, request for 6.4 foot side yard setback for existing shed at 322 Linden Avenue in an R-4 Zone. Hi... same as the preliminary tell us what you want to do.

MS. CAMPBELL: Well, there was a shed on the property when I bought it and apparently that person hadn't gotten a permit and so I'm requesting the variance now.

MR. KANE: Do you know approximately how old the shed is?

MS. CAMPBELL: About five years.

MR. KANE: Any complaints formally or informally about the shed.

MS. CAMPBELL: No.

MR. KANE: Shed similar in size to other sheds in your neighborhood.

MS. CAMPBELL: Absolutely.

MR. KANE: Cut down any trees or substantial vegetation.

MS. CAMPBELL: Not that I know of, it doesn't look like any.

MR. KANE: That's fine. Create any water hazards or runoff that you know of?

MS. CAMPBELL: No.

MR. KANE: Any easements through that area... none that you know of?

MS. CAMPBELL: I know that the Beaver Dam water people have the piece of strip of property right next door right behind the shed and they use my driveway all the time but, I don't think there is actually an easement.

MR. KANE: Are you on town water and sewer.

MS. CAMPBELL: We're on Beaver Dam water, but, New Windsor sewage.

MR. KANE: Do you guys have any questions? For the record, would you tell us why you wouldn't be able to relocate the shed.

MS. CAMPBELL: Well, the way it is now it's in a pretty good location and they put down some blacktop and it would be a real hassle financially to move it and then rip up that blacktop and reseed and everything.

MR. KANE: Okay, at this point, I'll open it up to the public and see if there is anyone in the audience for this particular hearing. Seeing that there is not, we will open and close the public portion and ask Myra how many mailings there were.

MS. MASON: On July 12<sup>th</sup> I mailed 54 envelopes and had no response.

MR. KANE: Any electricity to that shed.

MS. CAMPBELL: No none at all ... just a storage shed.

MR. KANE: Any other questions.

MR. MINUTA: Will you accept a motion.

MR. KANE: Yes I will

MR. MINUTA: I move that we grant Kathleen Campbell the request for a 6.4 foot side yard setback for an existing shed located at 322 Linden Avenue in an R-4 Zone.

MR. REIS: Second.

#### ROLL CALL

MS. LOCEY	AYE
MS. GANN	AYE
MR. REIS:	AYE
MR. MINUTA:	AYE
MR. KANE:	AYE

Motion carried 5 ayes.

**JOHN TALDONE (04-54)**

MR. KANE: Next public hearing is John Taldone request for 1,790 square foot lot area for a proposed single family dwelling on Sycamore Drive in an R-4 Zone.

MR. REIS: Mr. Chairman, Michael Reis, I have to recuse myself from this application, I'm involved with the sale of the property.

MR. BLOOM: Good evening ladies and gentlemen, my name is Dan Bloom and I'm an attorney in New Windsor and I represent Nicholas Taldone, the applicant, this evening. Before I came, I had the opportunity to review the minutes of last meeting, the public meeting, and for that reason, with this Board's permission, I'd like to rather than make it a broad base stroke application at this time, I would like to concentrate on the issue as I perceived it to be the main issue that was before the Board on the last application and obviously, the main concern of the neighbors and that was the water issue. To that end, we have retained the services of Mr. George Minervini, that I have here with me this evening, he's a geologist and with the Chair's permission, I'd like to have Mr. Minervini make some preliminary comments to you about his findings and conclusions and suggestions concerning the water problem in the area of the particular construction and so on.

MR. MINERVINI: Hi I'm George Minervini, I'm an Environmental Consultant, a Geological Consultant, with Inspect Environmental Consultants. Mr. Bloom and Mr. Taldone contacted me specifically to address the water issue regarding the proposed house on Sycamore Drive. Specifically whether the construction of such a house would significantly impact the ground water resources in the area. Apparently, I wasn't here last week, but apparently there was some objections or concerns for the ground water supply. Now, during the week I contacted some people knowledgeable and familiar with ground water in the area, including some local drillers in the Orange County Water Bureau. Regarding supply, the drillers indicated

MR. DREYER: Mr. Chairman, can I object please.

MR. KANE: Excuse me, no. No, right now, this is not a court. We have no jury. When the public portion is open, you'll be allowed to speak sir.

MR. DREYER: I'm just asking, are you going to accept here-say.

MR. KANE: Sir, yes, please sit down or leave. You can take it any way you want. Don't interrupt. I don't care if you're a lawyer, officer, a judge, my mother, don't interrupt somebody when they're speaking. This is not a court of law this is the Zoning Board of Appeals.

MR. DREYER: I was just asking if there was standing to object.

MR. KANE: Don't be rude. Thank you.

MR. DREYER: I was attempting to be polite sir.

MR. MINERVINI: The owners have indicated that the well productions in the area are usually in the area of two to five gallons per minute. This house, and I understand that Mr. Sabini, the

builder, has modified the design for the house, in other words, making it I think the original application was for a four bedroom house and it is now a three bedroom. A three bedroom house requires, I believe, 130 gallons per day, per bedroom, so that would be a total of 390 gallons would be the needed supply for that house. A short calculation would be if the well produced only one gallon per minute, you would still have 1,400 plus gallons provided by that well per day. I talking with Mr. Sabini, he has also agreed to implement as many water conservation devices as possible within the house itself, which would include low-volume, low-flow toilets, flow restrictors on faucets and that type of technological innovation. So, boiling that down, I think the needed supply for the house could be reduced, in other words, it's required to have 130 gallons per day per bedroom, I think with those devices, it could be lessened to somewhere in the neighborhood of 100 to 110 gallons per bedroom per day.

MR. KANE: Where did the 130 gallons per bedroom come from?

MR. MINERVINI: I believe that's from the Orange County Health Department.

MR. KANE: And that's their average, that's what they require?

MR. MINERVINI: That's what they require, yes.

MR. KANE: Do you have any information on what the actually average use would be?

MR. MINERVINI: I do not. And I don't have information, since there is no ground water supply in the Town of New Windsor on the overall capacity of the aquifer that is drawn from by this neighborhood. I don't think anybody denies that there is a recharge problem with that aquifer. Recharge being refilling of the water that is drawn from it. It's not a fast process, it's a slow process. Given the projected needs of New Windsor, which I believe are projected to be four million gallons per day, but that is for an existing consolidated water company, that's from the Catskill aquifer and there is no projection from the ground water supplies because there aren't any at this point. Boiling it all down, I don't think there would be a significant impact to the aquifer in the area of Sycamore Drive or Beaver Dam Lake by the addition of this house requiring 300 to 400 gallons per day. I would suggest that since there is a concern and some people's wells have gone dry for a period of time before they are totally recharged, that the neighborhood might consider a committee to develop water conservation practices as a neighborhood policy for the home owner.

MR. KANE: Wouldn't first rule of that be to cut back on the amount of people using it?

MR. MINERVINI: Well, you can't evict somebody from their house.

MR. KANE: No, but, you don't have to build new ones.

MR. MINERVINI: Well, I understand what you are saying.

MR. KANE: Any other suggestions sir?

MR. MINERVINI: No not really, I think that the efforts that the builder has now incorporated into his plan to lessen the amount of water that will be needed will, well I won't say that it's not

going to impact the aquifer, because obviously it is, it's another well on it, but, I think he's made an effort to appease and to try to conserve as much water as possible in his design.

MR. KANE: Ok, thank you. Have we gone from three bathrooms down to two?

MR. BLOOM: We have, Mr. Chairman, we've gone from four bedrooms to three, we've gone from two and a half baths to one and a half baths. And if I may pick up where Mr. Minervini left off, when he discussed with me the concept of water conservation in the general neighborhood, it sort of rang a bell with me and gave me this insight that I respectfully suggest that the Board consider and that is that whether or not my client builds this house, this neighborhood obviously has had and will continue to experience water shortages and that is obviously a function not only of the number of uses but, the manner in which they are used. In discussing this problem with Mr. Minervini, he indicated to me that it might make sense and he has heard of it before and it makes sense to me, that if this is, and it obviously is a serious problem in this neighborhood, what makes sense are these people who are obviously experiencing these problems and they're real, is to get together as a neighborhood and decide what voluntary conservation efforts could be made by all in the interest of all. Not just leave it voluntary but, then proceed to reduce those conservation efforts to writing in the form of a Restrictive Covenant that they voluntarily place in their own chains of title of each one of those deeds. If they succeed in doing that on the whole block, just imagine the impact perhaps on the whole district in the Washingtonville/Cornwall/New Windsor area out of Beaver Dam. So what I'm saying is that I think it's unfair to turn to every potential new lot builder, builder on a lot, and say we have a problem, therefore, you can't build, because isn't it a legitimate inquiry to say well maybe our problem is partially caused by us, not all of us, maybe not by some of us, but it seems to me to the extent that people recognize in the whole neighborhood they have a huge problem like this that if they don't take the impetus to say yeah we're going to get together and say look, we've got to do something about this, not just for us or our children, but, for future generations. We've got to place voluntary restrictions, not just voluntary, we've got to put them in our deeds. We've got to step up to the plate and do what's right, and I feel that my client's done that, I feel that Jerry Sabini's done that. He's reduced the size of this house by another 500 square feet. He's reduced it from 2 ½ baths to 1 ½, from four bedrooms to three. I think he's gone the extra mile and I respectfully request that this Board look favorably upon it.

MR. MINUTA: Sir, one questions, with regard to the deed restrictions. All very good ideas that I think that were brought to the table, my question is who would be responsible for policing those restrictions.

MR. BLOOM: Well, if you place restrictions like that in a deed, my recommendation would be that they have teeth. Whenever I prepare Restrictive Covenants such as this I put in the Restrictive Covenant that a violation of the covenant can be enforced by any of the homeowners that are signatories to the agreement and if they succeed, that they are entitled to an award of their attorney's fees and court costs, and therein lies the incentive because if you know you're violating it, you're going to back off because you know if you get sued, you got to pay your attorney and theirs.

MR. MINUTA: Well, again who would police that and how would that be policed?

MR. BLOOM: The individual lot owners, for example, you see your neighbor out after you sign the agreement washing the car, you tell them you better stop doing that. If they continue doing it, you bring an action against them, have it enforced and you get damages under the agreement.

MR. MINUTA: Who is to say that washing your car would not be within the guidelines of water restriction.

MR. BLOOM: Oh, I'm not, I'm using that as an example that's all.

MR. MINUTA: My question is this again, all very good ideas, I think implementing them may be very difficult because we need to rely on such devices as check meters and things of that nature to monitor the water, which would then need to be policed by the community in some way.

MR. BLOOM: No, I'm thinking of obvious ones, people water their lawns, people wash their cars, those are obvious. The more subtle ones, obviously would require meters. But, you know something, if I lived in a neighborhood where my investment relies on my availability of water supply, I'm going to voluntarily put water meter of some meter control device on my house because I want to be able to say to the person I sell that house to in ten or fifteen years that I covered this ultimately.

MR. MINUTA: So your suggestion is that the individual police themselves.

MR. BLOOM: The police themselves and the neighbors police, both.

MR. MINUTA: Thank you.

MR. KANE: Okay, how big is the home? Total square feet?

MR. SABINI: I believe it's 48 by 28 the top floor. The bottom would be with a two-car garage underneath it'd be another, I'd say 350 or 400 square feet approximately. Mr. Babcock do you have the blueprint?

MR. BABCOCK: 28 X 48. 1,344 square feet the top floor.

MR. KANE: Okay, 590 so you're looking at 1,934. Okay, next obvious thing to do is to open it up to the public... at this point, Please, we've been down this road before so please don't be repetitive, we know how you feel. They've made some changes, substantial in bringing it down almost 500 square feet. Just try to ask some questions that are pertinent and not rehash the old stuff. But, feel free, if you have a question, I want you to ask it.

MS. QUARTUCCIO: I'm Debbie Quartuccio, 340 Chestnut Avenue, New Windsor. I want to respectfully request that you, so we don't repeat everything we said, that you honor what we said in the minutes of the last meeting and I have them with me just in case.

MR. KANE: I have no problem with that.

MS. QUARTUCCIO: Same as the last meeting, my husband and I on July 6<sup>th</sup> on or about ran out of water totally and had to dump over \$3,000.00 into our well because we didn't have any water. I would also like to state that Mr. Bloom said, he obviously hasn't taken a drive through our neighborhood, because I don't think I've washed my car maybe once thirteen years ago.

MR. KANE: Well, it's an example, it's not, it's just looking at conservation.

MS. QUARTUCCIO: Well, I'm just saying that nobody waters their lawn, we already do that. We don't have to have a deed or spend the money for that because we're too busy putting it in our well. I saw the plans and they have like this utility room, not utility room, sorry, it's a storage room or closet. I have the same house. That room is a bathroom in my house. It's my second bathroom. I only have two bathrooms, there's no other place to put a bathroom. I feel that that will eventually become the third bathroom down there. Like I said, I tried to improve the quality of my life by having to take care of my well since the last time...

MR. KANE: How many feet did you have to go down this time?

MS. QUARTUCCIO: Went 370 feet down now. I had to put a new, this is my third pump that I had to put in three years because I kept going dry and it burned out all those pumps so he had to put a new one down again and you know, it's putting a strain on our...

MR. KANE: The question is how many feet did you go down this time, I'm trying to get a comparison.

MS. QUARTUCCIO: I think he went down ...

MR. KANE: Compared to where five years ago you were at or four years ago you were at...

MS. QUARTUCCIO: I was at 324.

MR. KANE: This time.

MS. QUARTUCCIO: No, I'm at 370 now.

MR. KANE: You're at 370 now and you were at 324 before.

MS. QUARTUCCIO: Yes.

MR. KANE: And how many years ago was that approximately.... That you had to do a redrill to get to 324.

MS. QUARTUCCIO: I just did it three weeks ago.

MR. KANE: No, you're not following me.

MS. QUARTUCCIO: I didn't do...

MR. KANE: You're at 370. Have you.. this is the first time you drilled since you been in the house in thirteen years.

MS. QUARTUCCIO: Yes, I sunk pumps yes.

MR. KANE: Okay, but, this is the first time you've drilled in thirteen years.

MS. QUARTUCCIO: Yes.

MR. KANE: I just wanted to see what the time span was, that's all.

MS. QUARTUCCIO: I only had fifteen foot of water when they did it. That's how bad it was. I couldn't recover this time. Like I said, we already practice water conservation. We weren't able to take more than three showers in a day and you couldn't do laundry that day if you did do that. So, that's all I can think of right now.

MR. KANE: Okay, thank you.

MS. QUARTUCCIO: Thank you.

MS. DREYER: My name is Tamara Dreyer and I'm at 336 Sycamore Drive. The empty lot happens to be right next to me on my right hand side. As I noticed, our other side here has done nothing but voice good opinions for us as far as I'm concerned, we already police ourselves to the fullest, I mean, I'm a single person living in the house and I only do one load of laundry a week. I know I'm getting a lot of air in my lines and things like that. I don't know if that is due to the fact that I may be going shortly so I just take my five minute shower and do one load of laundry a week to make sure I do keep my water. Please take notice of our past minutes that way we don't have to go through a lot of this again.

MR. KANE: We definitely will.

MS. DREYER: Thank you. I also want to state, I am not opposed to new neighbors. I'm not opposed to a house. I'm opposed to losing my water, which no one can guaranty I'm not going to do. Okay, so I want that made clear. I'm not opposed to these people per say.

MR. KANE: I understand. It's a tough question to answer. Is it their right to build or use their property and your right to use your property.

MS. DREYER: Absolutely, and I understand that but, like I've said in the past and I want to say again. This is my home and my community. I've been here thirty-two years. I'm extremely concerned with New Windsor in and of itself. To Mr. Taldone, this is only a piece of property to him. What affects us doesn't affect him. To him it's monetary and I understand that but this is my community and my home. I haven't left here.

MR. KANE: That's fine.

MS. DREYER: Absolutely, I just want to voice my opinions here. And it's not a legal building lot. I have to say that and once again, he has to go for a variance in order to put any



type of house on there and I think zoning laws were made to protect the people who are already here and already established. Again, the storage room, I do believe is going to eventually be a half bath or a full bath downstairs. It's got the washer and dryer right next to it. The plumbing is there. I just want this on the record, I offered to negotiate with Mr. Taldone after our last meeting and he was thoroughly unprofessional and rude and refused to negotiate at all. I was looking to offer an alternative to this house with me buying the lot to add to my current property and he was in no way going to negotiate with me. To him it is all monetary. Thank you.

MR. KANE: Your welcome. Next.

MR. FRYE: You talked about usage per household. The numbers that were suggested were pretty accurate. Most people use about 100 gallons per day. The average household uses about 300 gallons per day.

MR. MINUTA: Sir, could you please state your name.

MR. FRYE: Sure, Mike Frye, Hudson Valley Drilling and I spoke at the last meeting.

MR. DREYER: Thank you Mr. Chairman, I appreciate the time. I'm Darryl Dreyer, Silver, Forrester, Schiazano, Lesser and Dreyer 3250 Rt. 9W, New Windsor, NY here on behalf of Tamara Dreyer and others. I think the last point made by Ms. Dreyer, happens to be my sister, is very pertinent. This land is not completely unmarketable to Mr. Taldone. My sister has tried to negotiate with him in good faith to offer him something very reasonable given the circumstances and he completely refuses to negotiate. He wants to maximize the value of his land which is a lot that does not conform and refuses to accept the fact that he has a lot that does not conform in an area that has a water shortage problem and through and he has the ability to market the land. Obviously for something less than he can market to a builder for, but, he definitely has the ability to market the land. When I stood to object before and I apologize if I seemed out of line, I did not know the Chairman's rules, I just wanted to know if I had standing to object.

MR. KANE: I don't like interruptions.

MR. DREYER: And again, I apologize.

MR. KANE: Not a problem.

MR. DREYER: So I'll reserve my comments to now on that. The reported expert brought in by Mr. Bloom really added nothing more than we had last time. We didn't hear anything about his background, we didn't hear anything about his training and experience, we know nothing other than he is a claimed expert and more important than that, even if we assume that he is an expert on these issues, he told you nothing about what he did. He didn't do anything. He didn't go to the land, he didn't interview the neighbors, he didn't talk to the people, he didn't bring anything back to you. He said he talked to some well drillers and he was telling you what they said and then he brought you some numbers and said how a well in that area could produce enough water for that house. Well a well in that area can only produce enough water for that house if there is water to be drawn, to be produced. We've already heard from direct neighbors that they're having problems, that they go through water conservation on a daily basis, and

though I can appreciate the position Mr. Taldone is in, and I respectfully submit that all of the Board Members here can appreciate the position he's in, the bottom line is that he has a non conforming piece of property in an area that has a water shortage problem in an area that in a few short months, the minimum building lot is going from a half acre to an acre. He substantially not conforms, he's 10% low and that's not insubstantial I respectfully submit. With respect to the architectural drawings of the house, I notice that it is a shade less than 2,000. Last time they were here it was a shade less than 2,400. So they only reduced 500 square feet, they only reduced one bedroom. And I respectfully submit they haven't reduced any of the bathrooms, any of the rooms that would actually use water. Though Mr. Bloom said it was a bath and a half it really as drawn a two bath and that could have just been a mistake on Mr. Bloom's part, as drawn it's a two bath. Then, if you look at the utility room, and any of us that have lived in bi-levels in the Town of New Windsor, which I did for quite a period of time on Nina Street, if you look at that storage room on the bottom level that's uniquely situated to every bathroom that I've ever seen and the bottom level of a bi-level and it's certainly large enough to support at a minimum a half bath. I think it's larger than the half bath that I had on Nina Street that had the exact same layout as this house. It's uncanny to look at my house on this drawing. It was laid out exactly the same way and I respectfully submit it's not going to be storage Mr. Chairman, if you look just a few short steps away they have an 11' 4" X 16' 3" storage area they call it. Guess what that's going to be, that's going to be a bedroom, that's not going to be a storage area, so really what you're looking at is a four bedroom house, a four bedroom two and a half bath house, they've done nothing but redesign the house and call the bedrooms storage areas and then come to you and say look at what we've done, we've reduced the number of bedrooms, we reduced the number of bathrooms, they've done none of that. I respectfully submit it's actually misleading, substantially so, and the Board should not stand for that. One thing that was stated by the builder's representative, your honor, is that he doesn't deny that there is a recharge problem in the area. Well, of course there is a recharge problem in the area. You're drawing your water from a well and you're carting it away not into a septic system by a sewer system. So any of the water that's actually leaving is leaving the area it's not being replenished into the aquifer so over time, this is going to be an even worse problem and we heard that in the last minutes so I won't belabor that point. Mr. Bloom had some wonderful ideas. I respectfully submit that in theory they're wonderful ideas, in practicality, they will never work. You will never get an entire neighborhood together to agree on documents to sign them and put them to their deeds. Realistically, what it is it's just handshake agreements between the neighbors which they're already doing. Nobody waters their lawn, nobody washes their car. They have to ration the number of showers they can take, nobody's washing their cars. They run it over to Vails Gate through the Foam & Wash. Why would we make water shortage in that neighborhood worse for a lot that doesn't conform when the homeowner has been made the opportunity to get a fair value for the property, and we're not talking pennies, we're talking a fair value will be offered if he would be willing to listen to the offer. I respectfully submit, your honor, Mr. Chairman, that they brought nothing additional to this Board and their request for a variance should be denied. Thank you.

MR. KANE: Thank you. Anybody else? Would you like to address some of the comments?

MR. BLOOM: Mr. Chairman, briefly.

MR. KANE: Okay, I'll leave the public portion open in case there are some questions, just restraint.

MR. BLOOM: Fine, thank you, first of all, for the record I'd like to have Mr. Minervini state his credentials for the record. His credentials were challenged and I'd like them to be made public.

MR. KANE: Please.

MR. MINERVINI: Inaudible..... I have a Bachelors of Science degree in geology from the State University of New York and a Masters in geology from the State University of Montana. I've worked as a geologist for the last thirty-five years in various aspects such as mining, petroleum, environmental water supply, etc. Right now I have a consulting firm located in High Falls, NY. I worked for major companies such as petroleum companies, chemical companies and engineering firms in the south, the mid-west and the northeast and I've worked for engineering companies locally for the last fifteen years that have provided environmental and water solutions to townships, individuals, corporations, etc.

MR. BLOOM: Mr. Chairman, may I also have Mr. Sabini address the remarks made raising doubts as to whether or not this is really going to be one and a half bath or something more than this.

MR. SABINI: I'm Jerry Sabini. It is a one and a half bath house, because when I submit for the building permit, that's what it will be. When you put the bathrooms in downstairs, they are going to be underneath the slab and the Building Inspectors will come out and do an inspection visually so there is no waste line. There would have to be a waste line underneath the slab to be finished later so it will be one and a half baths. And the comment about the utility room, you can't do it.... Inaudible. It's definitely one and a half baths, as far as the storage room that's just it storage.

MR. KANE: Is that a heated room, the storage room.

MR. SABINI: Yes, you will have a strip of baseboard in there, yes. Only because above it should be the living room so the heat would rise.

MR. MINUTA: Does that storage room also meet the minimum required square footage by the State of New York for a bedroom?

MR. SABINI: I'm not sure. I don't really know what the requirements would be

MR. BABCOCK: Well, you got egress windows and everything else.

MR. MINUTA: My question is pertaining to the, number one – square footage and number two – whether egress would be provided at t his point or at some time in the future from the bedroom in a basement.

MR. BABCOCK: Well, let's put it this way, we don't want it to be a bedroom is what I'm understanding so we would make sure that there's not proper egress so it could never be a bedroom in the future.

MR. SABINI: There's no closet...

MR. KANE: Let's be real, if there is egress or not if they want to make it a bedroom, they're going to make it a bedroom. That's just the bottom line. They are going to throw a bed in there and a chest and it will be a bedroom, there's no control over that.

MR. SABINI: It's definitely one and a half bathrooms.

MR. KANE: I don't disagree with you... but I'm saying if people want to use it that way they are going to use it that way.

MR. BLOOM: I think it's a little bit disingenuous some of the complaints that I've heard this evening about blaming the water shortage or being concerned about the water shortage because of this, what I consider to be a very modest new house, to be constructed on this lot. Contrary to suggestions I am familiar with this neighborhood and have been all my life and there are additions on many of those houses out there and I dare say many of those additions are not legal additions besides and I dare say that this building is going to have and by restrictions voluntarily placed in the plans themselves, will be utilizing state-of-the-art ultimate water saving devices throughout the building and I would be very surprised if we were to look at the other surrounding houses and find most of those such devices in those houses. What I'm suggesting is, would it have an impact, I think it would be less than candid of me to suggest that it wouldn't, but, as we all know the rule is weighing the impact of this construction against the adverse impact on the rest of the neighborhood.

MR. KANE: Okay, before I close the public portion, I just want to make sure, any other comments?

MR. DREYER: Just in rebuttal, I won't raise any additional comments.

MR. KANE: Please do.

MR. DREYER: Mr. Bloom called this a modest house, I presume he meant modest in size and modest in amenities, though I can appreciate that it may be modest in comparison to some of the other new construction that's going on in the town and elsewhere, it's not modest for that neighborhood. The house directly next door is less than half the size, that would be my sister's house, it is less than 1,000 square feet. This one is more than double the size so, respectfully, for that neighborhood, the house is not modest. I respectfully submit that water usage for that house, regardless of the state-of-the-art water restriction devices is not modest and I can unequivocally state that my sister in her house has all of those state-of-the-art water conservation devices and the neighborhood still runs dry. Mr. Bloom did say he would be less than candid if he didn't say that there would be an adverse impact, and I agree with him and the question then becomes to this Board, should we put any more adverse impact on these people in this neighborhood who have lived there to support a new home on a lot that doesn't conform, and that's the issue. The lot doesn't conform and he can market the property. He's not walking away empty-handed.

There are people who are willing to negotiate with him and negotiate fairly if he would return a phone call. I thank you for your time.

MR. KANE: Anybody else... one more time.

MS. QUARTUCCIO: I just redid the well, so if he drills a well and he does hit my line, my vein, I mean clearly I just did it, if I go dry, wouldn't that be an indication that I had an adverse affect from his building. Nobody here is trying to stop anybody from building on lots that are already within the zoning guidelines. Right next to the park, they're trying to subdivide this huge acreage that's up there. We know we're going to get hit, we just don't want to be hit by people that don't conform that's all.

MR. KANE: Okay, everybody said their piece... public is closed. Alright, how many mailings do we have.

MS. MASON: On July 12<sup>th</sup>, I mailed out 31 envelopes, and I had no response.

MR. KANE: Back to the Board... questions... Michael, Kathy? No?

MR. REIS: Mike, would I be in bounds making a comment?

MR. KANE: From out there. Pick yourself up, walk out in the audience and from out there you can. You become part of the audience.

AUDIENCE MEMBERS: You closed the public portion sir. That's public.

MR. KANE: That's true.

AUDIENCE MEMBERS: Thank you.

MR. KANE: It's only fair. Are we all through with the questions... Joe.

MR. MINUTA: Are we open to discuss this amongst ourselves.

MR. KANE: Yes, everything else is closed, they can only listen.

MR. MINUTA: Okay, there are several issues here, the one being the well. That's been a primary issue from the beginning, every single meeting we had. I don't see any evidence coming forth to protect the other residents of the area. I don't see any evidence coming forth to predict what will happen in any way shape or form as was indicated with the research regarding wells, I don't find anything has come to the table to support or deny either ... the problem is, there is a definite water shortage in this area, which has been voiced by the residents who are already existing town taxpayers. With regard to the house, I don't believe that it's going to be out of the ordinary for the area. Perhaps that specific location, I do believe that it may be a little larger than normal for that specific area, however, for the building that's going on today it is a modest home. My question is, is the design of the house for the lot itself and what the lot's requirements are. The design of the house itself, each storage area or rec room or whatever other room we are going to rename as a different room becomes a problematic issue because we could say this

particular application is not against the former applicant in any way shape or form, it's the project itself that needs to stand it's own merit. As indicated by this Board and by the audience, each room could be actually made into a bedroom, whether it conforms or not, whether the new resident wants to conform or not conform, these places could be made into a bathroom, another bedroom, things of that nature. The application for this particular site, in my opinion, is lacking in the supply and demand of the well system, and had this not been the case, we run into issues like this before, where you know, it's a non-conforming use as far as square footage of property, but, there are also other caveats such as town water and sewer at the location. The, I think Mr. Dreyer brought up a very valid point as to the water that's being carted away. It is not seeping back into, I'm not a geologist, I'm an architect, but, the water seeping back into the ground only sounds logical that it would be replenished at some point in time. These are the issues that I have with this particular application.

MS. LOCEY: Was any draw down testing done on the wells?

MR. BLOOM: There is no well to test so to speak. It would have to come from the existing homeowners.

MR. KANE: The answer is no... there is no evidence that way. Well, I think it comes down to making up your mind what you want to do... can I get a motion.

MR. MINUTA: I make a motion to grant John Taldone the request for a 1,790 square foot lot area for a proposed single-family dwelling on Sycamore Drive in an R-4 Zone.

MS. LOCEY: Second.

ROLL CALL:

MS. LOCEY	NAY
MS. GANN	NAY
MR. MINUTA	NAY
MR. KANE	NAY

Motion denied 4 Nays.

Meeting Adjourned.